

70803 U.S. PTO



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NIKAIDO, MARMELSTEIN, MURRAY &amp; ORAM LLP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket No. P8026-7004

Prior Appln. Art Unit: 1815

61581 U.S. PTO

08/879139



06/19/97

Assistant Commissioner for Patents  
Washington, D.C. 20231

Date: June 19, 1997

Sir:

This is a request for filing a divisional application under 37 C.F.R. §1.60 of pending prior application Serial No. 08/593,269 filed on January 29, 1996, by Carl R. MERRIL, Richard M. CARLTON, Sankar L. ADHYA, for ANTIBACTERIAL THERAPY WITH BACTERIOPHAGE GENOTYPICALLY MODIFIED TO DELAY INACTIVATION BY THE HOST DEFENSE SYSTEM.

1. ☒ Enclosed is a copy of the prior application, including the oath or declaration as originally filed and an affidavit or declaration verifying it as a true copy.
2. ☐ A Verified Statement to establish small entity status under 37 C.F.R. §1.9 and §1.27 \_ is enclosed \_ was filed in the prior application and such status is still proper and desired.
3. ☒ The filing fee is calculated below:

Claims As Filed in the Prior Application, Less Any Claims  
Cancelled by Amendment Below

	Number Filed	Number Extra	Rate	Basic Fee \$770.00
Total Claim(s)	13 - 20	0	x 22.00	0
Independent Claim(s)	1 - 3	0	x 80.00	0
Multiple Dependent Claim(s)			+ 260.00	0
Total				0
Reduction by 1/2 for small entity				-
TOTAL FILING FEE =				770

4. ☒ Our check in the amount of Seven Hundred Seventy Dollars (\$770.00) is enclosed to cover the required fees. In the event that any other fees are required with respect to this application, please charge our Deposit Account No. 14-1060. Any overpayment may be credited to the same account.

5. ☒ Cancel in the application original claims 13-30 of the prior application before calculating the filing fee.

6. ☒ Amend the specification by inserting before the first line the sentence: This is a division of application Serial No. 08/593,269 filed January 29, 1996, which was a continuation of Serial No. 08/222,956, filed April 5, 1994, now abandoned.--

7. ☒ Transfer the drawings from the prior application to this application and abandon said prior application as of the filing date accorded this application. A duplicate of this sheet is enclosed for filing in the prior application file.

8. ☐ New ☐ informal ☐ formal drawings are enclosed.

9. ☐ Priority of application Serial No. filed on is claimed under 35 U.S.C. §119.

10. ☐ The certified copy has been filed in prior application Serial No. filed , and was acknowledged in the Office Action of (Paper No. ).

11. ☒ The prior application is assigned of record to Exponential Biotherapies, Inc., and the United States of America as Represented by the Secretary of the Department of Health and Human Services, which assignment was recorded on April 5, 1994, at Reel 6951, Frame 979.

12. ☒ The power of attorney in the prior application is to: David T. Nikaido, Reg. No. 22,663; Charles M. Marmelstein, Reg. No. 25,895; Robert B. Murray, Reg. No. 22,980; George E. Oram, Jr., Reg. No. 27,931; Ellen Marcie Emas, Reg. No. 32,131; and Douglas H. Goldhush, Reg. No. 33,125.

a. ☒ The power appears in the original papers in the prior application

b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.

c. ☒ Address all future communications to:

**NIKAIDO, MARMELSTEIN, MURRAY & ORAM LLP**

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655 Fifteenth Street, N.W.  
Suite 330 - G Street Lobby  
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13. ☒ A Preliminary Amendment will be filed when the filing receipt is received. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)
14. ☐ Also enclosed:
15. ☒ I hereby verify that the attached papers are a true copy of prior application Serial No.08/593,269 as originally filed on January 29, 1996.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

In the event this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time in parent Application S. N. 08/593,269. The fee for any such extension may be charged to our Deposit Account No. 14-1060, along with any other required fees.

June 19, 1997  
(Date)



Monica Chin Kitts  
Reg. No. 36,105  
Attorney of record

MCK/cb

Enclosures: Specification and Claims, Declaration, Check No. 13739